

HIGH TECH BROADBAND COALITION



May 6, 2004

The Honorable Michael K. Powell
Chairman of the Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Dear Mr. Chairman:

On April 26, 2004, President Bush set a national goal of “universal, affordable access for broadband technology by the year 2007...” The U.S. Government already has taken several actions that are encouraging more investment in broadband facilities. Notably, the Federal Communications Commission has freed last mile, wireline broadband investment from unbundling requirements, prompting carriers to accelerate their broadband investment. We agree with the President’s endorsement of the Commission’s decision to “[f]ree new fiber-to-the-home investments from legacy regulation, and with his views that “[d]eregulating new ultra-fast broadband infrastructure to the home removes a significant barrier to new capital investments.” For example, Verizon plans to connect 1 million homes with optical fiber this year and an additional 2 million homes in 2005. Accelerated investment by incumbent telephone companies in both the hybrid and fiber-to-the-home architectures under the Commission’s deregulatory initiative is critical to achieving the President’s goal. We hope that the recent announcement by Verizon is just the beginning of major investment initiatives by the incumbents.

Similarly, the Commission’s “hands off” approach to the cable network infrastructure spurred massive investments in that broadband platform. Meanwhile, to ensure that consumers continue to have unfettered access to the Internet, you have called on service providers to adhere to “net freedom principles.”

The Commission also has made great strides in facilitating the availability of other broadband platforms. Through a variety of spectrum reforms, the Commission has helped enable the evolution to third generation (3G) mobile technologies and more than doubled the spectrum available for broadband wireless networks. Additionally, in granting the *Pulver.com* petition, the Commission made clear that such VoIP applications are “information services,” thereby preserving the unregulated environment for Internet applications that will be instrumental to the continued success of this key driver of broadband growth. You and your fellow Commissioners are to be congratulated for these accomplishments.

As you know, however, much remains to be done if the government and industry are going to work together successfully to achieve the President's ambitious 2007 goal. In that regard, we recommend a series of near term and longer-term actions that the Commission can take to spur the broadband rollout.

In the near term the Commission should:

- resolve the outstanding petitions for reconsideration in the *Triennial Review* Order;
- establish a minimal regulatory structure in the cable and wireline broadband proceedings;
- keep VoIP largely free from regulation;
- reform the MMDS/ITFS spectrum allocation to enable mobile and fixed wireless broadband services;
- begin a rulemaking looking to permit the reuse of vacant UHF TV channels 21 to 51; and
- expedite the availability of UHF TV channels 52 to 69 for other services.

The High Tech Broadband Coalition (HTBC) believes that quick action on the *Triennial Review* reconsideration petitions could further strengthen incumbent telephone companies' incentives to invest in last mile broadband facilities serving multiple dwelling units and neighborhoods.¹

HTBC also believes that the Commission can provide additional certainty and stronger investment incentives in the broadband marketplace, notwithstanding *Brand X*, by determining that the transport component of DSL and cable modem service can be provided under private carriage even if they are ultimately held to be telecommunications under the 1996 Telecom Act.² HTBC has put forward compromise proposals in these broadband proceedings that would provide a two-year safe harbor for ISPs and an assurance that the Commission would monitor the broadband market to ensure that it develops consistent with our "connectivity principles."³

Regarding VoIP, HTBC urges the Commission to expeditiously reform intercarrier compensation and the contribution methodology for universal service. By doing so, the Commission would eliminate much of the economic pressure to regulate VoIP applications.

Lastly, HTBC recommends that the Commission make additional licensed and unlicensed spectrum available for wireless broadband services in the above proceedings. These spectrum reforms could foster broadband deployment in rural areas and facilities-based competition everywhere.

¹ HTBC Comments on TRO Petitions for Clarification and/or Partial Reconsideration, CC Docket 01-338 et al. (Nov. 6, 2003).

² HTBC *Ex Parte* Letter to Marlene H. Dortch, FCC Secretary, CC Docket Nos. 01-338, 02-33, CS Docket No. 02-52 et al. (Jan. 14, 2004).

³ HTBC *Ex Parte* Letter to Marlene H. Dortch, FCC Secretary, CC Docket No. 02-33, CS Docket No. 02-52 et al. (Sept. 25, 2003).

HTBC also stands ready to work with you and your colleagues to address longer-term initiatives. These efforts should include action on additional universal service and any remaining VoIP issues, expedition of the DTV transition and action on more fundamental spectrum reforms enabling flexible use of spectrum where appropriate. How these initiatives should be resolved is less clear, but we can be sure that getting them done properly and soon will greatly advance the widespread migration to true broadband.

Again, we applaud the Commission's past and continued leadership in achieving this important national goal. As President Bush recognized, success will "enhance our Nation's economic competitiveness and will help improve education and health care for all Americans."

Very truly yours,

BUSINESS SOFTWARE ALLIANCE

By: /s/ Robert Holleyman
Robert Holleyman
President and CEO

NATIONAL ASSOCIATION OF
MANUFACTURERS

By: /s/ Jerry Jasinowski
Jerry Jasinowski
President

CONSUMER ELECTRONICS ASSOCIATION

By: /s/ Gary Shapiro
Gary Shapiro
President and CEO

SEMICONDUCTOR INDUSTRY
ASSOCIATION

By: /s/ George Scalise
George Scalise
President

INFORMATION TECHNOLOGY
INDUSTRY COUNCIL

By: /s/ Rhett Dawson
Rhett Dawson
President

TELECOMMUNICATIONS
INDUSTRY COUNCIL

By: /s/ Matthew Flanigan
Matthew Flanigan
President

cc:

Ms. Marlene H. Dortch, Secretary
Commissioner Kathleen Q. Abernathy
Commissioner Jonathan S. Adelstein
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Kenneth Ferree, Chief Mass Media Bureau
William Maher, Chief Wireline Competition Bureau
John Muleta, Chief of the Wireless Bureau
Edward Thomas, Chief of the Office of Engineering and Technology
Brian Tramont, Chief of Staff to the Chairman Powell

Christopher Libertelli, Senior Legal Assistant to Chairman Powell
Matthew Brill, Senior Legal Assistant to Commissioner Abernathy
Daniel Gonzalez, Senior Legal Assistant to Commissioner Martin
Scott Bergmann, Legal Assistant to Commissioner Adelstein